

REMARKS

Claims 1-27 are pending. By this Amendment, dependent claims 26 and 27 are added. No new matter is added by the above amendments. In particular, dependent claims 26 and 27 are based on original claims 2 and 7, respectively.

In response to the Restriction Requirement, Applicants elect Group I directed to apparatus claims 1-7, 15-17 and 22-25 with traverse. With respect to the secondary Election of Species Requirement, Applicants elect Species 7 directed to claims 22-25, and new claims 26 and 27, with traverse. In addition, Applicants submit that independent claim 22 is generic to all of the claimed apparatus, and that claim 22 also reads on all of the alleged apparatus Species 1-7. Claims 18 and 22 are not "mutually exclusive" to the other alleged species, as asserted in the October 20 Office Action. Applicants respectfully traverse the Restriction and Election Requirements for the following reasons.

First, Applicants respectfully submit that the Restriction and Election of Species Requirements are improper, and that the Examiner can examine (and, in fact, already has examined) all claims without undue burden because the Examiner already has issued two Office Actions on original claims 1-17, which have not been amended during prosecution of this application. Thus, the Examiner already has twice-examined claims 1-17, and thus there is no undue burden to continue examining these claims.

Second, with respect to the Restriction Requirement between the apparatus and method claims, as set forth in the Restriction Requirement, both groups of claims have the same class and subclass. Thus, there is no undue burden to examine all apparatus and method claims at the same time.

Third, with respect to the Election of Species Requirement, the Election of Species Requirement is legally faulty because it is not appropriate to make an Election of Species Requirement between claims. See MPEP 806.04(e), which states "claims are never species."

As stated further on in this section of the MPEP "species are always the specifically different embodiments." Thus, the Office Action has not set forth a tenable Election of Species Requirement.

For at least the foregoing reasons, Applicants submit that the Restriction Requirement and the Election of Species Requirement should be withdrawn. Furthermore, upon allowance of generic claims 18 and 22, all pending claims should be rejoined and allowed.

Respectfully submitted,



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